

AMENDED IN SENATE JUNE 24, 2002  
AMENDED IN ASSEMBLY JANUARY 7, 2002  
AMENDED IN ASSEMBLY APRIL 18, 2001  
AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 13**

**Introduced by Assembly Member Florez**

December 4, 2000

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~~An act to amend Section 25174.1 of, and to add Section 25174.12 to, the Health and Safety Code, relating to hazardous waste. An act to amend Section 82002 of the Government Code, relating to the Political Reform Act of 1974.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Florez. ~~Hazardous waste disposal fees~~  
*Political Reform Act of 1974: Administrative action.*

*Existing provisions of the Political Reform Act of 1974 require a lobbyist employer and any person who directly or indirectly makes payments to influence legislative or administrative action of \$5,000 or more in a calendar quarter to file periodic disclosure reports, as specified. Existing law defines "administrative action" as the proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, among other things.*

*This bill would include within the definition of administrative action the solicitation, proposal, drafting, development, consideration, awarding, amendment, implementation, oversight, or funding of any contract between a state agency and any person, under which the person provides goods or services to the state agency.*

*Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.*

*This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.*

*This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.*

~~Existing law requires each person who disposes of hazardous waste to pay a fee to the State Board of Equalization for the disposal of that hazardous waste to land and specifies a schedule for calculating this fee, based upon the type of hazardous waste and the method of disposal or treatment. Existing law provides that the revenues from the hazardous waste disposal fee are deposited in the Hazardous Waste Control Account in the General Fund and the money in that account is available, upon appropriation by the Legislature, for expenditure for various purposes regarding the management of hazardous waste, including for expenditure by the Department of Toxic Substances Control for administering the hazardous waste control laws. Existing law provides that a facility operator is not required to collect and transmit the hazardous waste disposal fee to the State Board of Equalization for a hazardous waste, if the operator maintains written evidence that the hazardous waste is eligible for a specified exemption.~~

~~This bill would provide that a person who pays the fee to an operator of an authorized hazardous waste facility, registered as specified, is not otherwise liable for the payment of that fee amount.~~



~~This bill would provide that a facility operator is relieved from the liability to collect the fee for the disposal of a hazardous waste if the charge is represented by an account that is found to be worthless and may charged off for income tax purposes or may be charged off in accordance with generally accepted accounting principles. The bill would allow the operator to take a credit for any fee amount found to be worthless and would require the payments and credits to be applied in a specified manner.~~

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. — Section 25174.1 of the Health and Safety Code~~  
2 *SECTION 1. Section 82002 of the Government Code is*  
3 *amended to read:*  
4 82002. (a) “Administrative action” means ~~the~~ *either of the*  
5 *following:*  
6 (1) *The proposal, drafting, development, consideration,*  
7 *amendment, enactment, or defeat by any state agency of any rule,*  
8 *regulation, or other action in any ratemaking proceeding or any*  
9 *quasi-legislative proceeding, which shall include any proceeding*  
10 *governed by Chapter 3.5 (commencing with Section 11340) of*  
11 *Part 1 of Division 3 of Title 2.*  
12 (2) *The solicitation, proposal, drafting, development,*  
13 *consideration, awarding, amendment, implementation, oversight,*  
14 *or funding of any contract between a state agency and any person,*  
15 *under which the person provides goods or services to the state*  
16 *agency.*  
17 (b) “Ratemaking proceeding” means, for the purposes of a  
18 proceeding before the Public Utilities Commission, any  
19 proceeding in which it is reasonably foreseeable that a rate will be  
20 established, including, but not limited to, general rate cases,  
21 performance-based ratemaking, and other ratesetting  
22 mechanisms.  
23 (c) “Quasi-legislative proceeding” means, for purposes of a  
24 proceeding before the Public Utilities Commission, any  
25 proceeding that involves consideration of the establishment of a  
26 policy that will apply generally to a group or class of persons

1 including, but not limited to, rulemakings and investigations that  
2 may establish rules affecting an entire industry.

3 *SEC. 2. No reimbursement is required by this act pursuant to*  
4 *Section 6 of Article XIII B of the California Constitution because*  
5 *the only costs that may be incurred by a local agency or school*  
6 *district will be incurred because this act creates a new crime or*  
7 *infraction, eliminates a crime or infraction, or changes the penalty*  
8 *for a crime or infraction, within the meaning of Section 17556 of*  
9 *the Government Code, or changes the definition of a crime within*  
10 *the meaning of Section 6 of Article XIII B of the California*  
11 *Constitution.*

12 *SEC. 3. The Legislature finds and declares that the provisions*  
13 *of this act further the purposes of the Political Reform Act of 1974*  
14 *within the meaning of subdivision (a) of Section 81012 of the*  
15 *Government Code.*

16 ~~is amended to read:~~

17 ~~25174.1. (a) Each person who disposes of hazardous waste in~~  
18 ~~this state shall pay a fee for the disposal of hazardous waste to land,~~  
19 ~~based on the type of waste placed in a disposal site, in accordance~~  
20 ~~with this section and Section 25174.6. Each person who disposes~~  
21 ~~of hazardous waste is liable for the fee until that person pays that~~  
22 ~~fee to the state, except that if that person pays the fee to an operator~~  
23 ~~of an authorized hazardous waste facility, registered pursuant to~~  
24 ~~Section 43101 of the Revenue and Taxation Code, the person is not~~  
25 ~~otherwise liable for the payment of that fee amount.~~

26 ~~(b) For purposes of this section, the following terms mean:~~

27 ~~(1) "Dispose" and "disposal" include "disposal," as defined~~  
28 ~~in Section 25113, including, but not limited to, "land treatment,"~~  
29 ~~as defined in subdivision (n) of Section 25205.1.~~

30 ~~(2) "Disposal fee" means the fee imposed by this section.~~

31 ~~(c) Each operator of an authorized hazardous waste facility, at~~  
32 ~~which hazardous wastes are disposed, shall collect a fee from any~~  
33 ~~person submitting hazardous waste for disposal and shall transmit~~  
34 ~~the fees to the State Board of Equalization for the disposal of those~~  
35 ~~wastes. The operator shall be considered the taxpayer for purposes~~  
36 ~~of Section 43151 of the Revenue and Taxation Code. The facility~~  
37 ~~operator is not required to collect and transmit the fee for a~~  
38 ~~hazardous waste if the operator maintains written evidence that the~~  
39 ~~hazardous waste is eligible for the exemption provided by Section~~  
40 ~~25174.7 or otherwise exempted from the fees pursuant to this~~

chapter. The written evidence may be provided by the operator or by the person submitting the hazardous waste for disposal, and shall be maintained by the operator at the facility for a minimum of three years from the date that the waste is submitted for disposal. If the operator submits the hazardous waste for disposal, the operator shall pay the same fee as would any other person.

(d) Notwithstanding subdivision (c), the disposal facility shall not be liable for the underpayment of any disposal fees for hazardous waste submitted for disposal by a person other than the operator, if the person submitting the hazardous waste to the disposal facility has done either of the following:

(1) Mischaracterized the hazardous waste.

(2) Misrepresented any exemptions pursuant to Section 25174.7 or any other exemption from the disposal fee provided pursuant to this chapter.

(e) (1) Any additional payment of disposal fees that are due to the State Board of Equalization as a result of a mischaracterization of a hazardous waste, a misrepresentation of an exemption, or any other error, shall be the responsibility of the person making the mischaracterization, misrepresentation, or error.

(2) In the event of a dispute regarding the responsibility for a mischaracterization, misrepresentation, or other error, for which additional payment of disposal fees are due, the State Board of Equalization shall assign responsibility for payment of the fee to that person, or those persons, it determines responsible for the mischaracterization, misrepresentation, or other error, provided that the person, or persons, has the right to a public hearing and comment, and the procedural and substantive rights of appeal pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(3) Any generator, transporter, or owner or operator of a disposal facility shall report to the department and the State Board of Equalization any information regarding any such mischaracterization, misrepresentation, or error, which could affect the disposal fee, within 30 days of that information first becoming known to that person.

(f) The State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

1 ~~(g) The operator of the facility that disposes of the hazardous~~  
2 ~~waste to land shall provide to every person who submits hazardous~~  
3 ~~waste for disposal at the facility a statement showing the amount~~  
4 ~~of hazardous waste fees payable pursuant to this section.~~

5 ~~(h) Any person who disposes of hazardous waste at any site that~~  
6 ~~is not an authorized hazardous waste facility shall be responsible~~  
7 ~~for payment of fees pursuant to this section and shall be the~~  
8 ~~taxpayer for purposes of Section 43151 of the Revenue and~~  
9 ~~Taxation Code.~~

10 ~~(i) Any administrative savings that are derived by the state as~~  
11 ~~a result of changes made to this section by Chapter 638 of the~~  
12 ~~Statutes of 1995 shall be made available to the department and~~  
13 ~~reflected in the annual Budget Act.~~

14 ~~SEC. 2. Section 25174.12 is added to the Health and Safety~~  
15 ~~Code, to read:~~

16 ~~25174.12. (a) A facility operator is relieved from the liability~~  
17 ~~to collect the fee due pursuant to Section 25174.1 to the extent that~~  
18 ~~the charge for the disposal of the tonnage of hazardous waste upon~~  
19 ~~which the fee is imposed is represented by an account that is found~~  
20 ~~to be worthless and charged off for income tax purposes or, if the~~  
21 ~~facility operator is not required to file income tax returns, charged~~  
22 ~~off in accordance with generally accepted accounting principles.~~

23 ~~(b) If the facility operator has previously paid the fee, the~~  
24 ~~facility operator may take as a credit the amount of the fee found~~  
25 ~~to be worthless and charged off in the manner prescribed by the~~  
26 ~~board. If any of those accounts are thereafter, in whole or in part,~~  
27 ~~collected by the facility operator, the portion of the fee imposed by~~  
28 ~~Section 25174.1 as calculated under this section shall be included~~  
29 ~~in the first return filed after that collection and the fee paid with the~~  
30 ~~return.~~

31 ~~(c) In determining the amount to be deducted, claimed as a~~  
32 ~~credit, or remitted, all payments and credits to the account of the~~  
33 ~~person who submitted the hazardous waste to the facility for~~  
34 ~~disposal shall be applied to the fee imposed by Section 25174.1 in~~  
35 ~~the same proportion as the amount received bears to the total~~  
36 ~~amount the facility operator charged the person, including all taxes~~  
37 ~~and fees.~~